

## CHAPTER 8

### SOIL AND WATER CONSERVATION DISTRICTS

This chapter is designed to summarize certain laws, regulations and uniform compliance guidelines relevant to soil and water conservation districts. Please refer to the Indiana Code and other related documents for a complete listing of laws and regulations governing soil and water conservation districts. See chapters 10 through 24 of this manual for additional Accounting and Uniform Compliance Guidelines.

#### DEFINITIONS

Department = Department of Natural Resources [IC 14-8-2-67].

Board = State Soil Conservation Board [IC 14-8-2-24(2)].

District = Soil and Water Conservation District [IC 14-8-2-72(2)].

Supervisor = one (1) of the members of the governing body of a soil and water conservation district [IC 14-8-2-271].

#### PURPOSES OF A DISTRICT

It is the policy of the general assembly to provide for the proper management of soil and water resources, the control and prevention of soil erosion, the prevention of flood water and sediment damage, and the conservation development, use, and disposal of water in the watersheds of Indiana to accomplish the following:

1. Conserve the natural resources, including wildlife.
2. Control floods.
3. Prevent impairment of dams and reservoirs.
4. Assist in maintaining the navigability of rivers and harbors.
5. Protect the water quality of lakes and streams.
6. Protect the tax base.
7. Protect public land.
8. Protect and promote the health, safety, and general welfare of the people of Indiana. [IC 14-32-1-2]

#### DUTIES OF (STATE) SOIL CONSERVATION BOARD

The board shall do the following:

- (3) Offer appropriate assistance to the supervisors of soil and water conservation districts to carry out district powers and programs.
- (4) Keep the supervisors of districts informed of the activities and experience of all other districts and facilitate cooperation and an interchange of advice and experience among districts.

- (5) Coordinate the programs of the districts as far as this may be done by advice and consultation.
- (7) Disseminate information throughout Indiana concerning the activities and programs of the districts and encourage the formation of districts in areas where organization is desirable.
- (10) Adopt rules under IC 4-22-2 to implement this article. [IC 14-32-2-12]

#### BOARD OF SUPERVISORS - COMPOSITION AND QUALIFICATIONS

- (a) The governing body of a district consists of five (5) supervisors as follows:
  - (1) Two (2) who are appointed.
  - (2) Three (3) who are elected.
- (b) To hold the position of elected supervisor, an individual:
  - (1) must be an occupier of a tract of land that is:
    - (A) more than ten (10) acres in area; and
    - (B) located within the district;
  - (2) must maintain the individual's permanent residence within the district; and
  - (3) must be qualified by training and experience to perform the duties that this article imposes on supervisors.
- (c) To hold the position of appointed supervisor, an individual:
  - (1) must be of voting age;
  - (2) must maintain the individual's permanent residence within the district; and
  - (3) must be qualified by training and experience to perform the duties that this article imposes on supervisors. [IC 14-32-4-1]

#### BOARD OF SUPERVISORS - ANNUAL MEETING

- (a) During the first quarter of each calendar year, each district shall hold an annual meeting of all land occupiers in the district. The meeting shall be held on a date designated by the supervisors. The supervisors shall give due notice of the time and place of the meeting.
- (b) At the meeting:
  - (1) the supervisors shall make a full and an accurate report of the activities and financial affairs of the district since the previous annual meeting; and
  - (2) an election shall be conducted by secret ballot of the land occupiers present of one (1) supervisor who has a three (3) year term of office beginning on the date of the meeting.

(c) The supervisors shall provide a copy of the annual report presented at the meeting to the board and, upon request, to:

- (1) other cooperating agencies;
- (2) residents of the district; and
- (3) any other individual or entity that requests a copy of the annual report. [IC 14-32-4-6]

#### APPOINTED SUPERVISORS - TERM OF OFFICE AND SELECTION

- (a) The term of an appointed supervisor is three (3) years.
- (b) Before the term of an appointed supervisor expires, the supervisor's position shall be filled as follows:
  - (1) Not later than November 1, the district supervisors shall recommend to the board in writing one (1) or more individuals qualified to fill the position.
  - (2) At the first board meeting held after the board receives a recommendation under subdivision (1), the board shall act upon the recommendation.
  - (3) The board shall notify the supervisors of the appointment made by the board. [IC 14-32-4-10]

#### BOARD OF SUPERVISORS - QUORUM

A majority of the supervisors constitutes a quorum and the concurrence of a majority of the supervisors is required for the determination of any matter. [IC 14-32-4-16]

#### BOARD OF SUPERVISORS - COMPENSATION

- (a) A supervisor may be paid a salary per diem for any part of a day that the supervisor is engaged in the official business of the district in any amount not to exceed the salary per diem that may be paid by the state under IC 4-10-11-2.1(b).
- (b) A supervisor may also receive for travel, lodging, meals, and other expenses any amount not to exceed the amount a county employee of the county in which the supervisor resides is entitled to receive under the policies and procedures established by the county.
- (c) All amounts under this section shall be fixed by the supervisors of each district and paid from money of the district. [IC 14-32-4-17]

The salary per diem rate established by IC 4-10-11-2.1(b) is currently thirty-five dollars (\$35) per day.

#### BOARD OF SUPERVISORS - DUTIES AND RESPONSIBILITIES

The supervisors may delegate the powers and duties that the supervisors consider proper to any of the following:

- (1) The chairman.
- (2) Any number of supervisors.
- (3) Any number of agents or employees. [IC 14-32-4-20]

The supervisors of a district shall do the following:

- (1) Provide for the execution of surety bonds for all district employees and officers who are entrusted with money or property.
- (2) Provide for the keeping of a full and accurate record of all district proceedings and of all district resolutions and orders issued or adopted.
- (3) Provide for an annual audit of the accounts of receipts and disbursements of the district.
- (4) Provide a copy of each annual financial statement of the district to the board. [IC 14-32-4-22]

The supervisors of a district shall furnish to the board (state soil conservation board), upon request, copies of rules, contracts, forms, and other information concerning the activities of the supervisors that the board requires in the performance of duties under this article. [IC 14-32-4-21]

#### DISTRICT EMPLOYEES

(a) The supervisors of a district:

- (1) may employ necessary personnel, subject to IC 36-2-5-3 and IC 36-2-5-7; and
- (2) shall determine the qualifications and duties of the personnel.

(b) In any district except a district containing a consolidated city, an employee of the district:

- (1) is considered to be an employee of the county in which the employee works, except as provided in subsection (c); and
- (2) is eligible for and shall be included in all fringe benefit programs provided for employees of the county.

(c) An employee of a district whose position is funded entirely from sources outside the county in which the employee works solely on the basis of the funding of the employee's position is not considered an employee of the county. [IC 14-32-4-18]

## POWERS AND DUTIES OF DISTRICTS

(a) A district constitutes a governmental subdivision of the state and a public body corporate and politic exercising public powers.

(b) A district may do the following:

- (1) Carry out soil erosion and water runoff preventive and control measures within the district, including engineering operations, methods of cultivation, the growing of vegetation, changes in use of land, and the measures listed in IC 14-32-1-1(7) and IC 14-32-1-1(8), on the following:
  - (A) Land owned or controlled by the state with the consent and cooperation of the agency administering and having jurisdiction of the land.
  - (B) Any other land within the district upon obtaining the consent of the occupier of the land or the necessary rights or interests in the land.
- (2) Construct, improve, operate, and maintain the structures that are necessary or convenient for the performance of any of the operations authorized in this article.
- (3) Cooperate or enter into agreements with, and within the limits of appropriations made available to the district by law to furnish financial or other aid to, a federal, state, or other agency or an occupier of land within the district in the carrying on of conservation operations within the district, subject to the conditions that the supervisors consider necessary to advance the purpose of this article.
- (4) Obtain options upon and acquire, by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, real or personal property or rights or interests in property.
- (5) Maintain, administer, and improve property acquired, receive income from the property, and expend the income in carrying out this article.
- (6) Sell, lease, or otherwise dispose of property or interests in property in furtherance of this article.
- (7) Make available to land occupiers within the district, on terms that the district prescribes:
  - (A) agricultural and engineering machinery and equipment;
  - (B) fertilizer;
  - (C) seeds;
  - (D) seedlings;
  - (E) other material or equipment; and
  - (F) services from the district;

that will assist in conserving the soil and water resources of the land occupiers.

- (8) Develop or participate in the development of comprehensive plans for the proper management of soil and water resources within the district that specify the acts, procedures, performances, and avoidances necessary or desirable for the effectuation of the plans.
- (9) Publish plans and information developed under subdivision (8) and bring the plans and information to the attention of land occupiers within the district.
- (10) Take over, with the consent of the United States or the state, by purchase, lease, or otherwise, and administer any soil and water conservation, erosion control, water quality protection, or flood prevention project of the entity located within the district's boundaries.
- (11) Manage, as agent of the United States or the state, any soil and water conservation, erosion control, water quality protection, flood prevention, or outdoor recreation project within the district's boundaries.
- (12) Act as agent for the United States or the state in connection with the acquisition, construction, operation, or administration of any soil and water conservation, erosion control, water quality protection, flood prevention, or outdoor recreation project within the district's boundaries.
- (13) Accept donations, gifts, and contributions in money, services, materials, or otherwise from the United States and use or expend the services, materials, or other contributions in carrying on the district's operations.
- (14) Sue and be sued in the name of the district.
- (15) Have perpetual succession unless terminated as provided in this article.
- (16) Make and execute contracts and other instruments necessary or convenient to the exercise of the district's powers.
- (17) Adopt rules and regulations consistent with this article to carry into effect the purposes and powers of this article.
- (18) Require an occupier of land not owned or controlled by the state, as a condition to extending benefits under this article to or the performance of work upon the land, to do either or both of the following:
  - (A) Make contributions in money, services, materials, or otherwise to an operation conferring benefits.
  - (B) Enter into agreements or covenants concerning the use and treatment of the land that will tend to:
    - (i) prevent or control soil erosion;
    - (ii) achieve water conservation and water quality protection; and
    - (iii) reduce flooding;on the land.

- (19) Cooperate with the state in the following:
  - (A) Conducting surveys, investigations, and research relating to the character of soil erosion and water losses and the preventive and control measures needed.
  - (B) Publishing the results of the surveys, investigations, or research.
  - (C) Disseminating information concerning the preventive and control measures.
- (20) Cooperate with the state in conducting, within the district, soil and water conservation, erosion control, water quality protection, and flood prevention demonstration projects:
  - (A) on land owned or controlled by the state with the agency administering and having jurisdiction of the land; and
  - (B) on any other land upon obtaining the consent of the occupier of the land or the necessary rights or interests in the land.
- (21) Serve as the management agency for:
  - (A) the erosion and sediment part of 33 U.S.C. 1288 (P.L. 92-500, section 208); and
  - (B) other erosion and sediment reduction programs that affect water quality in each county. [IC 14-32-5-1]

#### RESTRICTIONS ON POWERS AND DUTIES OF DISTRICTS

A district may not do any of the following:

- (1) Exercise the right of eminent domain.
- (2) Incur indebtedness beyond available money.
- (3) Issue bonds.
- (4) Take contributions by exactions or persuasions. However, the district may accept voluntary contributions from any source if the following conditions are met:
  - (A) The donations are offered for the sole and exclusive purpose of promoting soil and water conservation within the district.
  - (B) The district satisfactorily guarantees to the donors the faithful use of the donations for that purpose.
- (5) Engage in:
  - (A) the marketing of farm products; or
  - (B) the buying and selling of farm supplies;
    - other than those products or supplies used or needed directly or indirectly in soil and water conservation work.

- (6) Engage in agricultural research or agricultural extension teaching except in cooperation with Purdue University.
- (7) Levy taxes.
- (8) Make or levy benefit assessments or any other kind of assessments. [IC 14-32-5-5]

Districts organized under this article or IC 13-3-1 (before its repeal) may cooperate with each other in carrying on the work of the districts. However, this section does not permit the transfer of authority or powers from one (1) district to another. [IC 14-32-5-6]

#### AUTHORITY FOR COUNTY TO APPROPRIATE MONEY TO DISTRICT

The fiscal body of each county that contains a district in whole or in part may appropriate money for the use of the district serving the county from which the appropriation is to be made. [IC 14-32-5-8]

#### DUTIES OF DEPARTMENT (DEPARTMENT OF NATURAL RESOURCES)

(a) The division of soil conservation:

- (1) shall administer and coordinate the duties and responsibilities of the department under the land resource programs authorized by this chapter; and
- (2) in carrying out its duties under subdivision (1), may work in cooperation with the following:
  - (A) Federal and state agencies.
  - (B) Local governmental agencies involved in land use planning and zoning.
  - (C) Any person, firm, institution, or agency, public or private, having an interest in land conservation.

(b) The department may employ the personnel and provide facilities and services that are necessary to carry out the department's duties and responsibilities under this chapter. [IC 14-32-7-6]

The department shall provide more support and assistance to the local soil and water conservation districts by:

- (1) granting to the districts the additional money that is appropriated by the general assembly; and
- (2) increased coordination and consultative services;

to obtain increased participation by the districts in the development of improved local land use practices and decisions. [IC 14-32-7-9]

The department shall administer this article subject to the direction of the board (State Soil Conservation Board) [IC 14-32-7-13]



## DUE NOTICE

"Due notice," for purposes of IC 14-32, means a notice given through publication at least two (2) times, with an interval of at least six (6) days between the two (2) publication dates, in a newspaper or other publication of general circulation within the appropriate area. [IC 14-8-2-80]

## DEFINITION OF LAND OCCUPIER

"Land occupier" or "occupier of land," for purposes of IC 14-32, means a firm, an individual of voting age, a limited liability company, or a corporation that:

(1) towns:

(A) a life estate; or

(B) an interest greater than a life estate;

in; or

(2) is in legal possession, under an express or implied rental lease, of;

a tract of land that is located within a district (as defined in IC 14-8-2-72(2)) or proposed for inclusion within a district under IC 14-32-6.5. [IC 14-8-2-143]

## REGULATIONS AND GUIDELINES OF STATE, FEDERAL, AND LOCAL AGENCIES

Soil and Water Conservations Districts should follow the regulations and guidelines of state, federal and local agencies, including, but not limited to, policies as developed and adopted by the State Soil Conservation Board and the Operations Manual For Indiana Soil and Water Conservation Districts prepared by the Division of Soil Conservation, Indiana Department of Natural Resources.

## MEALS AND/OR REFRESHMENTS

The following is the State Board of Accounts audit position related to meals and/or refreshments provided by a Soil and Water Conservation District.

In general, a governmental unit would be precluded from providing meals and/or refreshments to individuals who are not employed by the government. A governmental unit would also generally be precluded from providing meals, refreshments, or other personal items to its employees or officials, unless specifically provided for by statute or duly authorized written policy of the government.

Some governments authorize reimbursement of meals and similar expenses to its employees and officers while on travel status through a properly adopted travel policy. In the case of a Soil and Water Conservation District such reimbursements would be made in accordance with the County's travel policy. In general, other meals or similar expenses provided to employees or members of the governing body are not authorized.

Likewise, meals and similar expenses for individuals who are not employees or officers of the District would not be allowable expenditures of District funds; however, the State Board of Accounts would not take exception to the following:

Meals or refreshments provided to volunteers who are in the process of performing services for the benefit of the District, provided such expenditures are reasonable and allowed by a duly authorized policy adopted by the Board of Supervisors of the District.

Light refreshments provided to the general public during field days and similar public events promoting soil and water conservation, provided such expenditures are reasonable and related to the event hosted or sponsored by the District.

Meals provided at less than the District's actual cost at the District Annual Meeting. We recognize the Annual Meeting is an integral part of the activities of the District, and as such, part or all of the cost related to the Annual Meeting are generally duly authorized expenditures of District funds. The Board of Supervisor should adopt a written policy describing costs or fees for its various activities, including the cost, if any, of the meal provided at the District Annual Meeting. If the District provides meals at no cost to certain participants, or if different rates are charged to different classes of participants, the written policy referred to above should include the methodology used to determine which participants are provided meals at no cost, or are charged different rates for meals.